



STATE OF DELAWARE

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ADDENDUM TO STAFF'S MEMORANDUM OF JULY 6, 2017

TO: The Chair and Members of the Commission

FROM: Kevin Neilson, Regulatory Policy Administrator *KS*

DATE: August 3, 2017

SUBJECT: IN THE MATTER OF THE APPLICATION OF DELMARVA POWER AND LIGHT COMPANY FOR APPROVAL TO REVISE ITS NATURAL GAS TARIFF IN COMPLIANCE WITH NEW FEDERAL REGULATIONS REGARDING EXCESS FLOW VALVES
(FILED MARCH 13, 2017) – PSC DOCKET NO. 17-0129

IN THE MATTER OF THE APPLICATION OF CHESAPEAKE UTILITIES CORP. FOR REVISIONS TO ITS GAS TARIFF
(FILED MARCH 29, 2017) – PSC DOCKET NO. 17-0158

On July 18, 2017, The Division of the Public Advocate ("DPA") filed a Position Statement ("Position") with respect to both the Delmarva Power and Chesapeake Utilities applications (Dockets 17-0129 and 17-0158). In that Position Statement, the DPA asserts a variety of concerns with the proposed Staff position. To minimize the need for oral rebuttal at the Commission meeting Staff offers this further clarification on its position.

IS AN EXCESS FLOW VALVE ("EFV") A SAFETY DEVICE?

Does an EFV installed on a service line increase the overall safety for customers? Apparently it does, as the National Transportation Safety Board (NTSB) Press release of February 6, 1996¹ states the NTSB has been recommending the installation of flow valves for natural gas service lines to improve safety since 1971. The DPA Position states that the

¹ https://www.nts.gov/news/press-releases/Pages/NTSB_Alerts_States_Directly_to_Implement_Excess_Flow_Valves_For_Natural_Gas_Service_Lines.aspx, attached.

Pipeline and Hazardous Materials Safety Administration's ("PHMSA's") reluctance to make optional EFV installations mandatory signals no greater risk to those customers who elect not to request one.² Contrary to the DPA's speculation on PHMSA's thought process, the Staff Pipeline Safety team, who is responsible for the safety of gas pipelines in Delaware, asserts that EFV installations do reduce the risk of fire and explosion that may arise when service lines are damaged. If EFVs do not provide added safety for customers, the Delaware Commission should question PHMSA for requiring an unnecessary device on all "new" service lines.

WHO SHOULD PAY FOR GAS SYSTEM SAFETY?

The Commission's role in regulating utility service is well known. The Commission is charged with requiring every public utility to furnish safe and adequate and proper service and to maintain its property and equipment in such condition as to enable it to do so.³ If one were to agree that EFV's help ensure "safe and adequate and proper service", as a safety device in gas delivery systems, how can the Commission require individual customers to pay for this "safe and adequate and proper service" that is statutorily required of the public utility? To the extent that customers of any utility are seeking "safe and adequate and proper service", should some be required to pay for added safety devices that others receive free?

Staff registered a concern that requiring residential customers, particularly low income customers, to pay for requested installations could be considered discriminatory. The DPA notes, "....the fact is that Delaware law permits discriminatory treatment: only individual or joint rates that are unjust, unreasonable, unduly preferential or unjustly discriminatory are prohibited."⁴ According to the DPA Position, it appears that according to Delaware law, discrimination is permitted on any customer charges that are not individual or joint rates. While that may be the regulatory law, charging residential customers with existing services for an EFV installation, while providing it free to new residential customers is still evidence of discrimination from Staff's perspective.⁵

The DPA has referenced the decisions made in Maryland and Pennsylvania with respect to this issue. Once again, Staff asserts that it would be improper to base a decision for Delaware simply on the decisions made in other states. We do not know the factors and policies involved in establishing rates, as a whole, in those states. In its initial memo, Staff pointed out that Rhode Island has chosen to include the cost of EFV installations in rate base, but this was done for the sole purpose of showing that there are states with the opposite perspective of Maryland and Pennsylvania. Staff does not know the reasoning behind the decision made by Rhode Island. Also, there are examples of other states that are struggling with this issue while waiting to see what is being done by various states across the country.

WHAT IS IT GOING TO COST?

² DPA Position Statement, July 18, 2017, Page 10

³ 26 Del. C. §209(2)

⁴ DPA Position Statement, July 18, 2017, Page 9

⁵ Disparate treatment of similarly situated customers based on whether they are old or new customer installations.

It appears that the DPA attempts to calculate the impact to rate base for each of the companies assuming every last customer who is eligible for this device requests it and assuming the utility average estimates to install are correct and assuming no payment by any customer. Using these assumptions the DPA computes the rate base additions would be \$25,744,200 for Delmarva and \$62,127,150 for Chesapeake.⁶ However, Staff disputes this calculation. First, the calculation for Delmarva is too low due to the DPA using an incorrect number of eligible services in its calculation. Second, the calculation for Chesapeake is based on a median, as opposed to an average cost per installation which may artificially inflate the calculation. Regardless, of this dispute, it is not likely, even if free, that all approximate 99,000 customers would want their yard, walk or driveway cut open and repaired, simply to install an EFV. The newest regulation requiring pipeline operators to notify customers about their ability to request the installation of EFV's has been in place for almost four months, and Staff has not been made aware of any requests for EFV installations in existing services in that timeframe. In fact, Staff is not aware of any inquiries that have been generated as a result of the notices provided to customers by Delmarva or Chesapeake. The fact is, customers have had the ability to request EFV installations for quite some time, and Staff has never been made aware of any requests for an EFV installation.

WHO IS RESPONSIBLE FOR GAS SAFETY?

When and/or if an individual or family is killed or injured in a gas explosion, it is the utility and the Commission's Pipeline Safety program that comes under review. Did the program miss an obvious issue or were their utility pipeline violations leading up to the explosion that should have been discovered by the Commission's inspectors? The safety of gas delivery lies with the utility and the Commission's regulation. The DPA, while concerned about who pays for the added safety, has no official role or responsibility for gas pipeline safety.

WHAT OPTIONS SHOULD BE CONSIDERED?

This Commission's decisions are based on requiring utilities to provide safe, adequate and efficient utility services for all customers and those decisions have typically been paid for through customer rates. An explosion and serious injury to a customer and their family, simply because a customer couldn't afford the estimated \$2,000 cost for an EFV installation, seems quite contrary to this Commission's prior approach to safe, adequate and efficient utility service.

As previously mentioned in Staff's initial memorandum, the Commission should consider the cost of the EFV installations that are requested, as merely a cost of providing "safe and adequate and proper service." And as such, the costs, should be recovered from all

⁶ DPA Position Statement, July 18, 2017, Pages 5-6

customers taking service from what would be a system with improved safety devices to protect all customers from unnecessary injury.

However, if the Commission is concerned with the potential for abuse by customers requesting a free EFV, the Commission could require the utilities to report quarterly on the number of requests and costs incurred. The Commission could revisit any decision on cost recovery when reporting indicates a significant cost impact. Also, while not the most desirable alternative, the Commission could consider implementing a small customer contribution (\$100 - \$300), if concerned about all 99,000 customers requesting a free EFV. This may provide the effect of the customer giving more careful consideration to requesting an EFV, as opposed to simply requesting one because it is free.

ARE THERE ANY AREAS OF AGREEMENT WITH THE DPA POSITION?

Staff believes there is actually no requirement for a tariff sheet on this topic as EFV installations, either by new service mandate or by customer request for an existing service, should be made just like any other service investment. However, if the Commission believes a tariff sheet for the EFV offering is required, Staff does agree with the DPA that the tariff wording, whereby the Company does not guarantee or warranty the operation of the EFV, is not consistent with the Company's full warranty responsibility for EFV operation on all "new" service line installations. The wording limiting Company liability should be denied.

NTSB Press Release

National Transportation Safety Board Office of Public Affairs

NTSB Alerts States Directly to Implement Excess Flow Valves For Natural Gas Service Lines

2/6/1996

Citing the critical need to move now, the National Transportation Safety Board called on the Governors of all States that have gas distribution systems and the Mayor of the District of Columbia to require installation of excess flow valves (EFVs) on new and renewed gas distribution service lines, including service lines supplying schools, churches, and other places of public assembly. The Safety Board said that its recommendations on EFVs date back to 1971 and that the issue has been on the Board's "Most Wanted List" of recommendations since its inception.

The Board's recommendations were contained in its final report on the natural gas explosion that occurred June 9, 1994 at the Gross Towers Apartment retirement complex in Allentown, Pa. The explosion killed one person, injured 66 persons and caused more than \$5 million in property damage. The Safety Board stated that had an excess flow valve been installed at the eight-story apartment building the consequences of the accident could have been substantially reduced and the likely result would have been no injuries or deaths.

The Safety Board noted that had the Department of Transportation (DOT) adopted our 1971 excess flow valve recommendations, as many as 30 million homes would be protected today, instead of just over one million. The Board concluded that over the past 20 years the DOT's Research and Special Programs Administration has failed to effectively assess the benefits of excess flow valves and has failed to promote their use.

Excess flow valves are inexpensive safety devices that are usually installed in the gas line at the point where the customer service line joins to the gas main line in the street. If there is an excessively large flow of gas in the service line, as happens when there is a rupture, the EFV will stop the flow of gas into the service line until the problem has been determined, thus limiting the amount of gas that might leak into a home or larger building. Gas operators reportedly respond to more than 30,000 instances of excavation-caused gas line ruptures annually; those that EFVs were specifically designed to control. A single Ohio-based gas operator with 8,000 EFVs installed reported that during a recent 18 month interval 144 of the valves activated due to excavation-caused damage minimizing the potential of catastrophe.

Related Press Releases

- February 06, 1996

[NTSB Alerts States Directly to Implement Excess Flow Valves For Natural Gas Service Lines](#)

Related Reports

- [Pipeline Accident Report PAR-96-01](#)

More NTSB Links

- [Investigation Process](#)
- [Data & Stats](#)
- [Accident Reports](#)
- [Most Wanted List](#)

In the Allentown accident, the gas explosion occurred at about 6:45 p.m. on June 9, 1994, when a 2-inch-diameter steel gas service line that had been exposed during an excavation separated at a compression coupling about 5 feet from the north wall of the eight-story building. The escaping gas flowed underground into the building foundation, entered the mechanical room through floor vents, and migrated up to other building floors.

The Safety Board determined that the natural gas explosion and fire was the failure of the management of Environmental Preservation Associates, Inc.(EPAI), to ensure compliance with OSHA's and its own excavation requirements through project oversight.

Contributing to the accident was the failure of the workmen from EPAI to notify UGI that the gas line had been damaged and was unsupported. Contributing to the severity of the accident was the absence of an excess flow valve or a similar device, that could have rapidly stopped the flow of gas once the service line was ruptured. Also contributing was the absence of a gas detector, which could have alerted the fire department and residents promptly when gas entered the building.

In addition to its recommendation to States and jurisdictions with natural gas distribution systems to require excess flow valves, the Safety Board also recommended that:

--the Department of Transportation's Research and Special Programs Administration:

- Require gas-distribution operators to notify all customers of the availability of excess flow valves; any customer to be served by a new or renewed service line with operating parameters that are compatible with any commercially available excess flow valve should be notified; an operator should not refuse to notify a customer because of the customer's classification or the diameter or operating pressure of the service line.

--the Department of Housing and Urban Development:

- Require the installation of excess flow valves in new and renewed gas services to buildings that the Department has approved for Federal rent subsidies.

The Safety Board also made recommendations on other related issues to the Department of Housing and Urban Development, the Governor of Pennsylvania, the Associated General Contractors Association, the National Utility Contractors Association, and UGI Utilities, Inc.

The Safety Board's complete printed report, PB 96-916501, may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. The number is (703) 487-4650.

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The National Transportation Safety Board (NTSB) is an independent federal agency charged with determining the probable cause of transportation accidents, promoting transportation safety, and assisting victims of transportation accidents and their families.